



International Covenant on Civil and Political Rights

Distr.: General
4 June 2013
English
Original: French

Human Rights Committee

107th session

Summary record of the 2958th meeting

Held at the Palais Wilson, Geneva, on Thursday, 14 March 2013, at 3 p.m.

Chairperson: Sir Nigel Rodley

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Angola (continued) (CCPR/C/AGO/1, CCPR/C/AGO/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Angola took places at the Committee table.*
2. **The Chairperson** invited the delegation to provide further replies to the first series of questions asked by the Committee at the previous meeting.
3. **Mr. Carneiro Mangueira** (Angola) said that homosexuals were not stigmatized in his country. The Office of the *Provedor de Justiça* (Ombudsman) was quite well-known to the public, thus improving access to the courts; some 300 cases had been handled in 2011 and by November 2012 that number had already tripled. The Office of the Public Prosecutor included 99 female prosecutors. The Constitution was the supreme law and always took precedence where there was a conflict with a national law or an international instrument. In cases of doubt, however, rulings always went in favour of the accused.
4. Life expectancy had increased from 40 to 54 years in only four years and infant mortality was in decline.
5. **The Chairperson** invited the Committee members to move on to items 9 to 17 of the list of issues.
6. **Ms. Majodina** said that, according to some NGOs, the police disciplinary rules were not compatible with the prohibition of torture as stipulated in the Constitution because they required absolute obedience irrespective of the action demanded. Torture was not punishable under the Criminal Code and cases continued to be reported. She would welcome further information on the preventive regulations referred to in paragraph 34 of the written replies.
7. The delegation was invited to give details on the mandate of the Intersectorial Committee for the Prevention and Combat of Trafficking in Humans, long-term assistance to victims, and subsidies granted to NGOs, which accounted for the bulk of the assistance. It would also be useful to know more about the labour inspection mechanisms, as well as Act No. 13 of 2001 which provided for free instruction without stipulating at what age: the risk of falling victim to trafficking or exploitation was certainly higher for early school leavers. Lastly, she would welcome comments on reports of several cases of violence against inmates, as well as on the case of the Chinese nationals released from trafficking in April 2011.
8. **Mr. Bouzid**, noting that the State party had made considerable efforts to combat the practice of arbitrary detention said that often, however, the duration of custody exceeded the legal limit and some civilians were still being detained by the Army. The delegation might wish to clarify under what legal provisions detention could be extended and what measures were envisaged to safeguard detainees' rights, particularly since the legal aid service was inadequate. The delegation might also comment on various cases of arbitrary detention reported by Human Rights Watch and provide statistics on the use of the complaints mechanism.
9. **Ms. Motoc** requested a detailed reply to the various issues of concern raised in points 13 and 14 of the list of issues, as well as to the question of freedom of movement, which was restricted for refugees on account of a reservation to the 1951 Convention

relating to the Status of Refugees and would also supposedly be so under Act No. 17 of 1994, in particular in diamond-bearing areas.

10. **Mr. Kälin**, observing that foreigners could not appeal against a detention order, wondered how the State party intended to comply with article 9, paragraph 4, of the Covenant and how it ensured that no deportations were carried out in violation of article 7. The registration of refugees was a good step forward but seemed to have been discontinued in 2012, which raised the issue of whether those who had arrived later were considered illegal immigrants. Human rights violations in the diamond-bearing areas had not been committed by State officials, even though those officials had an obligation to protect: the delegation was invited to explain in detail what had been done in response to the violations. The Committee would also appreciate information on the progress of the programme to develop the prison system, the extent of prison overcrowding, the use of parole and alternative measures instead of pretrial detention to alleviate overcrowding, and detainees' use of the complaints mechanism.

11. **Ms. Seibert-Fohr** also requested a more detailed answer to question 13 and highlighted that an independent mechanism should be set up to investigate all allegations of violence committed against migrants, including sexual violence, in particular during deportation. Similarly, an external mechanism should be used in addition to the internal investigations conducted by the Armed Forces. Lastly, it would be useful to know what had been done in response to United Nations recommendations concerning the right of persons liable to deportation to have their cases heard (Covenant, art. 13).

12. **Mr. Shany** asked whether there were obstacles in the Constitution to the State party's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, and whether the obligation to separate juvenile detainees from adults was guaranteed by law.

13. *The Chairperson suggested suspending the meeting for a few minutes to allow the delegation to prepare its replies.*

The meeting was suspended at 3.55 p.m. and resumed at 4.10 p.m.

14. **Mr. Carneiro Mangureira** (Angola) replied, in relation to the Criminal Code and the criminalization of torture, that the Commission for the Reform of Justice and the Law would be responsible for all issues concerning torture. Special efforts had been made for the Convention against Torture, and reports prepared would be sent to the National Assembly in preparation for Angola's accession to the Convention. The Director and other officials had been suspended at the Viana Immigration Detention Centre, where two inmates had been beaten by prison officers; investigations were under way and criminal proceedings would certainly be initiated.

15. In the case of the Chinese victims of forced labour, those responsible had been brought before the Court of Luanda. There were regular labour inspections to prevent such violations. There were two shelters for victims of domestic violence and at least one more was scheduled to be opened in each province.

16. The Pretrial Detention Act stipulated that persons arrested in flagrante delicto were immediately placed in detention and, if there was no justification for their continued detention, they could be released on bail pending trial, unless the charges against them were punishable by more than 8 years' imprisonment. Detainees were prosecuted as a matter of priority. The law on pretrial detention and the law on habeas corpus would be reviewed by the Commission for the Reform of Justice and the Law so as to ensure that certain cases were handled more swiftly.

17. Regarding refugees, Angola was working closely with countries of origin, and bilateral meetings had been arranged with Sierra Leone, Liberia, the Republic of Guinea

and the Republic of the Congo to address the problem of loss of refugee status. Refugees had the right to freedom of movement in Angola, but many wished to settle in the diamond-producing areas, especially Lunda Norte, Lunda Sul and Malanje provinces, which posed a problem. An interministerial committee had been tasked with finding a solution. Regarding the repatriation of refugees, the State was working with countries of origin with the participation of the United Nations High Commissioner for Refugees. Some 30,000 Angolan refugees in border countries had been repatriated in 2012.

18. Illegal immigration was a highly complex issue. Illegal immigrants generally entered the country with the intention of mining and illegally trading diamonds. A crisis had broken out in 2009 between Angola and the Democratic Republic of the Congo when in very little time, 38,000 Congolese had entered Angola illegally to settle in the diamond-bearing areas. Not only did the authorities of the Democratic Republic of the Congo fail to cooperate but had deported to Angola some 15,000 refugees who had settled there over 30 years earlier. Regarding the allegations of acts of torture and sexual violence perpetrated against migrants, the authorities had sent a delegation to the border area where the acts had been reported, and an envoy of the United Nations Secretary-General had worked directly with the Angolan authorities over the issue. National experts had been sent to the location and very rigorous investigations had been carried out, initial reports having indicated that some 3,000 people had been raped. Only one case of sexual violence had been confirmed, for which the perpetrator, a policeman, had been arrested and was in pretrial detention awaiting trial. There was a law governing the activity of private security companies, and regulations restricted them to the exclusive use of small weapons. In diamond-producing zones, such companies protected the interests of diamond companies. Clashes had sometimes occurred with illegal immigrants arriving in the provinces in armed and organized groups to exploit diamonds illegally. If investigations established that acts of violence had been committed, the State party took severe measures against the security companies.

19. Considerable efforts had been made to reduce prison overcrowding. Prisons currently had a capacity of 11,200 and yet were holding 21,000 prisoners. New programmes should increase the capacity to 13,000. Men were held separately from women, as were young people from adults. A new detention centre for 16–18 year olds would shortly be opened with accommodation for 400. Measures such as suspended sentences and parole also decreased prison overcrowding. With regard to the treatment of prisoners, there were surveillance mechanisms and every complaint of ill-treatment was duly investigated. The reports were also easy to verify because Angola provided unrestricted access to prisons. Inmates could be visited by family members, and foreigners by their consular representative.

20. **Mr. Bambi** (Angola) indicated that for crimes with sentences heavier than 8 years' imprisonment, the initial period of pretrial detention was 45 days and could be extended at most on two more occasions, so that detention could last up to 135 days.

21. **Mr. Diamantino de Conceição** (Angola) said that the rate of prison overcrowding currently stood at 38 per cent. A three-stage plan to streamline the prison system was currently being implemented. During the first stage, six new detention centres and one prison hospital had been constructed and the most dilapidated prisons had been renovated; the second phase was well-advanced and covered the construction of an additional nine detention centres and a prison psychiatric hospital, as well as programmes to boost psychosocial support and prisoner rehabilitation.

22. **Ms. Janeiro** (Angola) explained that there was a tripartite agreement between the Angolan Government and the Governments of the Republic of the Congo and the Democratic Republic of the Congo regarding the exchange of persons in an irregular situation. The agreement set out the following procedure: when a foreigner in an irregular situation was brought to a detention centre for illegal immigrants, the immigration service

of his or her country of origin was notified within a period of 48 hours, and a date was set to escort the illegal immigrant to the border. Persons wishing to complain about how they had been treated could do so in writing. Lastly, in respect of asylum seekers, Angola strictly adhered to the principle of non-refoulement.

23. **Mr. Carneiro Mangueira** (Angola) said that his country worked with the authorities of illegal immigrants' countries of origin and the International Organization for Migration to facilitate repatriation. As regards Congolese immigrants, the problem was that no sooner were they returned to the Democratic Republic of the Congo than they recrossed the border, Angola had therefore called on the Congolese authorities no longer to receive the immigrants near the border, but in Kinshasa. The massive illegal immigration was pushing up crime in the province of Cabinda and causing a glut of court cases.

24. **Ms. Motoc**, returning to the questions on acts of torture and sexual violence against immigrants allegedly committed by members of the Armed Forces or the Angolan security forces, drew the delegation's attention to the significant gap between the large number of cases in the NGO and several United Nations reports and the results of the investigation by the Angolan authorities which identified only one case of sexual violence. She would therefore welcome further information on the investigations. In addition, she wished to know what progress had been made by the bilateral commission set up between Angola and the Democratic Republic of the Congo.

25. **Ms. Majodina** asked for clarification on the police disciplinary rules: the Committee had been informed that the rules required police officers' absolute obedience of orders, even when it could result in acts of torture, thereby constituting a violation of the Constitution and of international law.

26. **Mr. Kälin**, stressing that the detention of persons staying illegally in a country was covered by the provisions of article 9, paragraph 4, of the Covenant, asked whether migrants in an irregular situation who had been arrested and placed in detention there had any available remedies to challenge the legality of the provisions before the courts. Given that since 2012, asylum seekers and refugees were no longer recorded, he asked whether guarantees had been introduced to avoid a situation whereby an individual entered Angola illegally to apply for asylum but might not be deemed a migrant in an irregular situation and could be returned to his or her country, unable to lodge an appeal.

27. **Mr. Vardzelashvili** requested further information on the legal maximum duration of pretrial detention and asked how much time in practice a suspect could be detained before facing trial.

28. **Mr. Bouzid** said that, according to the delegation, the pretrial detention of Cornélio Sambo and Venâncio Chicumbo complied with the law. However, according to Human Rights Watch, the men allegedly waited six weeks to be transferred to the pretrial detention facilities or stand before a judge. He wished to know why. He also asked whether the maximum duration of custody was indeed five days as he had understood.

29. **The Chairperson** requested further clarification on the maximum duration of all forms of deprivation of liberty and on relevant guarantees, such as the right to see a lawyer. He wondered how the Office of the Ombudsman examined complaints before it and whether it published the results of its investigations.

30. **Mr. Carneiro Mangueira** (Angola) said that, despite the number of refugees and asylum seekers, they did not pose a real problem for the Angolan Government, which worked closely with the United Nations High Commissioner for Refugees and the International Organization for Migration as well as with all relevant States, particularly Liberia, Sierra Leone and Guinea. The 17,000 refugees in Angola were all duly registered and those who could no longer enjoy that status but wished to remain in the country could

do so without applying for a residence permit. However, immigrants in an irregular situation were a problem because every day 100 or so of them entered the country illegally. Even though they were regularly returned to their country, they did not lose heart but tried again in the knowledge that the border surveillance system was ineffective. The Angolan Government had signed a number of bilateral agreements — including with the Democratic Republic of the Congo — and multilateral agreements to facilitate the repatriation of foreigners in an irregular situation. The procedure was administrative and not judicial.

31. The Angolan Government had taken the allegations of the rape of 3,000 people in border areas very seriously. Consequently, it had invited international task forces to conduct investigations in the area and had collaborated with Congolese authorities, who claimed not to have recorded any cases of rape. A representative of the Secretary-General of the United Nations had visited Angola to check the accuracy of the allegations but had found insufficient evidence to corroborate them. The task force set up to conduct investigations had identified only one case of rape and the perpetrator had been tried and sentenced.

32. When violence was done on the orders of a superior, as soon as the act constituted a violation of the law, the perpetrator was liable to prosecution even if he or she had been carrying out the orders of a superior. With regard to the Viana Immigration Detention Centre, an investigation was under way to determine whether the violence had been committed on the order of the director of the institution or whether the guards had done it of their own accord. No efforts would be spared to uncover the truth and bring those responsible to justice.

33. **Mr. Bambi** (Angola) said that under the Pretrial Detention Act and article 337 of the Code of Criminal Procedure, the duration of pretrial detention depended on the gravity of an offence. For a less severe offence, the suspect might be released. Although the offence was liable to over 8 years' imprisonment, pretrial detention lasted for 45 days and could be extended twice. The maximum duration of pretrial detention was therefore 135 days and a maximum of 1 year could elapse between the arrest and the judgement. By law, the suspect must come before a prosecutor within 5 days, although ideally within 24 hours. The delegation would do everything possible to discover why Cornélio Sambo and Venâncio Chicumbo had been deprived of liberty for 6 weeks without being brought before a prosecutor and would eventually communicate all its findings to the Committee.

34. **Mr. Vardzelashvili** asked the delegation to confirm that it was a public prosecutor who ordered 45-day extensions of provisional detention. He wished to know how much time elapsed between the arrest of the suspect and the delivery of the verdict. It would be interesting to know whether the duration of the proceedings counted towards the maximum detention period of 1 year mentioned by the delegation and whether, should the procedure carry on for several years, the suspect would be kept in pretrial detention until the court had handed down its decision.

35. **The Chairperson** asked at what stage of the procedure the person in custody left police premises to be transferred to a pretrial detention centre.

36. **Mr. Bambi** (Angola) said that under no circumstances could a suspect spend a year at the police station. During the preliminary inquiry, a detainee could be held for a maximum of 135 days. It was possible for a public prosecutor to order extensions, with due justification. The case was then referred to the competent court and the suspect was taken to the court cells. From that moment onwards, the pretrial detention could be extended by duly justified order of a judge. Pretrial detention occurred for the most part on court premises.

37. **Mr. Shany** asked for confirmation that it was the public prosecutor who decided whether or not detention was legal.

38. **Mr. Carneiro Mangueira** (Angola) replied that it was indeed the prosecutor's task.
39. **Mr. Bambi** (Angola) said that after a year of pretrial detention, even if the trial was still in progress, the suspect had to be released.
40. **The Chairperson** thanked the delegation for its replies and invited Committee members to put their questions on questions 18 to 26 of the list of issues.
41. **Mr. Bouzid** observed that there were only 16 provincial courts for 163 municipalities, making it complicated and expensive for some people to participate in judicial proceedings. In addition, he would welcome the delegation's comments on the fact that the court fees would be very high and it would be difficult to receive legal aid. Given that an anti-corruption law had been adopted, he asked for further information on the State party's specific efforts to combat corruption.
42. Referring to the fact that some 20 bills were still at the drafting stage and that the Criminal Code had been under revision for some 10 years, he asked why the process was so slow. As customary law was recognized by the Constitution, it would be interesting to know whether there were customary courts and if traditional chiefs had jurisdiction to try cases.
43. According to information in the Committee's possession, the Angolan authorities had reportedly evicted persons who, during the civil war, had built homes on State-owned land. During the evictions, 3,000 homes had apparently been destroyed and serious abuse had ensued, resulting in the death of some inhabitants, including babies. Moreover, reports suggested that the land reclaimed by the State in the public interest had then been sold to individuals who had constructed commercial buildings. He would appreciate the delegation's comments on those allegations and an indication as to whether measures had been taken to relocate the evictees. Also, according to some sources, it would apparently be extremely costly and complicated to register land in the cadastre and, consequently, owners refrained from taking the necessary steps. Could the State party envisage making the process easier and more affordable?
44. Lastly, he asked whether civil society organizations might be invited to take part in the drafting of the State party's second periodic report.
45. **The Chairperson** invited Committee members to ask further questions at the next meeting.

The meeting rose at 6 p.m.